

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

**IN RE BARD IVC FILTERS PRODUCTS  
LIABILITY LITIGATION**

No. 2:15-MD-02641-DGC

**SECOND AMENDED MASTER  
SHORT FORM COMPLAINT FOR  
DAMAGES FOR INDIVIDUAL  
CLAIMS AND DEMAND FOR JURY  
TRIAL**

Plaintiff(s) named below, for their Complaint against Defendants named below, incorporate the Master Complaint for Damages in MDL 2641 by reference (Doc. 364). Plaintiff(s) further show the Court as follows:

1. Plaintiff/~~Decedent~~ Party:

Donald Butterbaugh

2. Spousal Plaintiff/Deceased Party's spouse or other party making loss of consortium claim:

3. Other Plaintiff and capacity (i.e., administrator, executor, guardian, conservator):

4. Plaintiff's/~~Defendant~~ Party's state(s) [if more than one Plaintiff] of residence at the time of implant:

## New York

5. Plaintiff's/~~Defendant~~ Party's state(s) [if more than one Plaintiff] of residence at the time of injury:

New York

6. Plaintiff's current state(s) [if more than one Plaintiff] of residence:

## New York

7. District Court and Division in which venue would be proper absent direct filing:

**U.S. District Court-Western District of New York**

8. Defendants (check Defendants against whom Complaint is made):

由 C. R. Bard Inc.

## **Bard Peripheral Vascular, Inc.**

## 9. Basis of Jurisdiction:

## 为 Diversity of Citizenship

Other:

a. Other allegations of jurisdiction and venue not expressed in Master Complaint:

10. Defendants' Inferior Vena Cava Filter(s) about which Plaintiff(s) is making a claim (Check applicable Inferior Vena Cava Filter(s)):

#### Recovery® Vena Cava Filter

□ G2® Vena Cava Filter

□ G2® Express Vena Cava Filter

日 G2® X Vena Cava Filter

Eclipse® Vena Cava Filter

#### □ Meridian® Vena Cava Filter

1                    Denali® Vena Cava Filter  
2                    Other: \_\_\_\_\_

3                   11. Date of Implantation as to each product:

4                   April 10, 2016

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6                   12. Counts in the Master Complaint brought by Plaintiff(s):

- 7                    Count I: Strict Products Liability – Manufacturing Defect  
8                    Count II: Strict Products Liability – Information Defect (Failure  
9                   to Warn)  
10                    Count III: Strict Products Liability – Design Defect  
11                    Count IV: Negligence - Design  
12                    Count V: Negligence - Manufacture  
13                    Count VI: Negligence – Failure to Recall/Retrofit  
14                    Count VII: Negligence – Failure to Warn  
15                    Count VIII: Negligent Misrepresentation  
16                    Count IX: Negligence *Per Se*  
17                    Count X: Breach of Express Warranty  
18                    Count XI: Breach of Implied Warranty  
19                    Count XII: Fraudulent Misrepresentation  
20                    Count XIII: Fraudulent Concealment  
21                    Count XIV: Violations of Applicable New York (insert  
22                   state) Law Prohibiting Consumer Fraud and Unfair and  
23                   Deceptive Trade Practices  
24                    Count XV: Loss of Consortium  
25                    Count XVI: Wrongful Death  
26                    Count XVII: Survival  
27                    Punitive Damages

3 \_\_\_\_\_

4 \_\_\_\_\_

5 \_\_\_\_\_

6 \_\_\_\_\_

7 \_\_\_\_\_

8 \_\_\_\_\_

13. Jury Trial demanded for all issues so triable?

10 Yes

11 | □ No

12 RESPECTFULLY SUBMITTED this 11th day of September, 2018.

13 | CELLINO & BARNES, P.C.C.

15 By: /s/ Brian A. Goldstein  
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19 I hereby certify that on this 11th day of September, 2018, I electronically  
20 transmitted the attached document to the Clerk's Office using the CM/ECF System for  
21 filing and transmittal of a Notice of Electronic Filing.

/s/ Brian A. Goldstein